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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

LUIS MANUEL CONTRERAS,

Defendant and Appellant.

E062015

(Super.Ct.No. FVI1300752)

OPINION

APPEAL from the Superior Court of San Bernardino County. John M. Tomberlin, Judge. Affirmed.

Leslie A. Rose, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

On June 13, 2011, defendant pled guilty to felony resistance against a peace officer (count 1; Pen. Code, § 69).<sup>1</sup> The court sentenced defendant to 36 months of

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<sup>1</sup> All further statutory references are to the Penal Code.

formal felony probation. On August 22, 2014, defendant admitted a violation of a term of his probation and submitted on the probation officer's recommendation to reinstate probation. The court reinstated defendant on an extended period of probation.

After counsel filed the notice of appeal, this court appointed counsel to represent defendant. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436, and *Anders v. California* (1967) 386 U.S. 738 [87 S.Ct. 1396, 18 L.Ed.2d 493], setting forth a statement of the case and identifying one potentially arguable issue: whether the court abused its discretion in denying defendant's request for a certificate of probable cause.

#### PROCEDURAL HISTORY

On June 13, 2011, defendant pled guilty in Ventura County Superior Court to felony resistance against a peace officer (count 1; § 69). The court sentenced defendant to 36 months of formal felony probation with various terms and conditions including that he participate as directed in any treatment program designated by the probation officer (term No. 17-4), obey all laws (term No. 18), and not drink or possess any alcoholic beverage or be where alcohol is the chief item of sale (term No. 31).

On December 14, 2012, after moving to San Bernardino County, defendant filed a motion to have his probation supervision transferred to that county. The court granted defendant's motion on March 4, 2013. The court modified the terms of defendant's probation on April 30, 2013, renumbering the above listed terms as, respectively, term No. 17, term No. 1, and term No. 16.

On July 29, 2014, defendant was arrested for disorderly conduct while under the influence of alcohol. On August 4, 2014, the probation officer filed a petition for revocation of defendant's probation alleging defendant had violated the terms of his probation that he violate no law (term No. 3), cooperate with the probation officer in a plan of rehabilitation and follow all reasonable directives of the probation officer (term No. 5), and neither possess nor consume any alcoholic beverages nor enter places where such beverages are the chief item of sale, and submit to test at the direction of the probation officer (term No. 11A).<sup>2</sup>

The probation officer noted, "Although the defendant has not received any formal violations he has been admonished on several occasions for being in possession of empty beer cans, not cooperating with law enforcement[,] and having a negative attitude towards his Probation Officer. [Defendant] refuses to take responsibility for his actions and continues to place blame on others for his negative behavior."

The probation officer recommended the court order defendant's probation reinstated, order defendant to serve 365 days in jail with an award of credit for time already served, and complete a treatment program. Defendant submitted on the probation officer's recommendation. Defendant admitted a violation of term No. 4 of his

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<sup>2</sup> There is no explanation in the record with regard to the incongruities respecting the probationary term numbers between the court's order of April 30, 2013, and those in the petition for revocation.

probation.<sup>3</sup> The court reinstated defendant on 36 months of probation, ordered that he serve 365 days in jail with credit for 66 days, and complete a treatment program.

On September 30, 2014, counsel filed an appeal on defendant's behalf challenging "the validity of the plea or admission." The request for a certificate of probable cause read, "Defendant has contacted his attorney's office and requested that his attorney file a Notice of Appeal as to his admission of a probation violation on 8/22/14." The court denied the request. On October 16, 2014, counsel from Appellate Defenders, Inc., filed an amended notice of appeal "based on the sentence or other matters occurring after the plea."

#### DISCUSSION

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues. (*People v. Castelan* (1995) 32 Cal.App.4th 1185, 1188 [The denial of a request for certificate of probable cause can only be challenged by the filing of a petition for writ of mandate.].)

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<sup>3</sup> This was actually term No. 16 as ordered by the court on April 30, 2013, and term No. 5 according to the petition for revocation of probation. Again, there is no explanation in the record for the incongruities between the probationary term numbers referred to by the court and parties.

DISPOSITION

The judgment is affirmed.

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CODRINGTON

J.

We concur:

HOLLENHORST

Acting P.J.

KING

J.